

REMARKS

The present communication is responsive to the Official Action mailed June 13, 2005.

Applicants note with appreciation the Examiner's consideration of applicants' request to correct the inventorship in the application and the indication that the inventorship has been corrected to include Lawrence R. Stotts.

Applicants also note with appreciation the Examiner's careful consideration of claims 15 through 17 and the indication that these claims are allowed.

In accordance with the Examiner's request, applicants designated FIG. 1 as "PRIOR ART." A replacement drawing sheet that includes the added designation is included herewith.

As is shown above, applicants have also amended the written description to correct typographical and grammatical errors. Applicants respectfully submit that the corrections to the written description do not constitute the addition of new matter.

Applicants have also amended the claims. In particular, claim 1 has been amended to now recite "(a) a housing having at least one opening therein and an endface at which said at least one opening terminates, said housing being adaptable to be arranged at least partially within an ear of a user such that said at least one opening is directed toward the auditory canal within the user's ear." Claim 1 has also been amended to recite "(c) a mounting member connected to said housing and being adapted to rest within the user's ear; and (d) a clamp connected to said housing for pivotal movement away from said end face where it is remote from the user's ear, and movement toward said end face where it is in contact with the user's earlobe whereby secured assembly of the housing on the ear can be obtained." Support for the amendments to claim 1 may

be found by reference to, for example, FIGS. 2 and 3 and paragraphs [0008] and [0053] of the specification.

Claims 2, 7 and 17 have been amended to correct typographical errors.

Claim 18 has been amended to recite "a housing having at least one opening disposed therein and an endface defining a surface at which said at least one opening terminates, said housing being positionable at least partially within an ear of a user such that said endface rests within the user's ear and such that said at least one opening is directed towards the auditory canal within the user's ear;. . . and a clamp-connecting member coupled to said housing and operable to move toward said endface surface to a first position proximate the ear lobe of the user such that the electronic headset is secured against the ear of the user and away from said endface surface to a second position such that the electronic head set may be removed from the ear of the user." Claim 18 has also been amended to be more clearly directed to the claimed invention. Support for the amendments to claim 18 may be found by reference to, for example, FIGS. 2 and 3 and paragraphs [0008] and [0053] of the specification.

Claim 21 has been amended to improve its form in view of the amendments to claim 18.

Claim 22 has been amended to correct a typographical error.

Claims 24 and 26 have been cancelled. Claim 25 has been amended to improve its form.

Claim 27 is presented for the first time. Support for claim 27 may be found by reference to, for example, FIGS. 8 through 10 and their accompanying description.

Claims 28 through 30 are also presented for the first time and depend from the claim 27. Support for these claims may be found by reference to, for example, paragraphs [0056] through [0058] of the specification.

Applicants respectfully submit that the amendments to the claims and the addition of new claims 27 through 30 do not constitute the addition of new matter.

In the Official Action, the Examiner rejected claims 1 and 4-7 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,809,159 to Lee (hereinafter "*Lee*"). (Official Action at 3.) The Examiner also rejected claims 2-3 and 18-26 under 35 U.S.C. §103(a) as being unpatentable over *Lee*. (*Id.* at 4.) With regard to claims 2-3 and 18-26, the Examiner indicated that although "*Lee* does not clearly teach that the extended portion does not entirely occlude [the] auditory canal as claimed . . . providing a partially occluded auditory canal inserter with a venting feature for [a] headset is very well known in the art." Therefore, it would have been obvious to one skilled in the art to "provide a suitable partially occluded auditory canal inserter with a venting feature for the headset as an alternate choice." (*Id.*)

*Lee* discloses an earpiece 1 that is equipped with a clamp 3 for securing or engaging the earpiece to a user's ear. (*Lee*, see FIG. 1 and 4 and col. 2, lns. 24-30.) The clamp 3 is connected to the earpiece 1 via a connecting seat 2. (*Id.*, col. 2, lns. 9-13.) The connecting seat 2 is secured to the housing of the earpiece 1. (*Id.*, see FIGS. 2 and 4.) The earpiece also includes an endface that is inserted in the user ear. As is shown in FIGS. 2 and 4, when the connecting seat 2 is secured to the earpiece's housing, the clamp 3 pivots about an axis that is oriented towards and generally parallel to the auditory canal of the user's ear. In this way, while *Lee*'s clamp 3 allows an earpiece to be engaged and disengaged from the user's ear lobe, the clamp does not move toward or away from the endface of *Lee*'s earpiece. Instead, the clamp moves across the endface of *Lee*'s earpiece.

In contrast, claim 1 now recites "a clamp connected to said housing for pivotal movement away from said end face where it is remote from the user's ear, and movement toward said end face where it is in contact with the user's earlobe whereby secured assembly of the housing on the ear can be obtained."

With regard to claim 18, it now recites "a clamp-connecting member coupled to said housing and operable to move toward said endface surface to a first position proximate the ear lobe of the user such that the electronic headset is secured against the ear of the user and away from said endface surface to a second position such that the electronic head set may be removed from the ear of the user."

With regard to newly presented claim 27, it recites "a member connected to the housing proximate the second end for clamping the earpiece to the user's ear lobe, the member being movable away from the plane defined by the endface surface and operable to secure the earpiece against the user's ear lobe." Lee's clamp does not move away or towards a plane defined by the endface surface.

Applicants therefore respectfully submit that claims 1, 18 and 27 are not anticipated by Lee because Lee does not disclose a clamp that moves towards or away from the endface of an earpiece. Indeed, claims 1, 18 and 27 recite a mechanism that pivots or moves opposite to that shown in Lee. Applicants further respectfully submit that as Lee includes no suggestion or motivation for pivoting in the manner as claimed by applicants, Lee also does not render either claims 1, 18 or 27 obvious. Therefore, for at least the foregoing reasons applicants respectfully submit that Lee neither anticipates nor renders obvious claims 1, 18 or 27. Further, as all the other claims pending in the application depend from one of these claims, all the other claims are not anticipated or rendered obvious by Lee for at the least the foregoing reasons.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 16, 2005

Respectfully submitted,

By 

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**IN THE DRAWINGS**

FIG. 1 has been amended to include the legend "PRIOR ART." Please replace the first drawing sheet of record with attached replacement sheet.

Attachment: Replacement Sheets